

United States District Court

For the Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BELINDA K.,) Case No.: 10-CV-05797-LHK
Plaintiff,)
v.) ORDER
COUNTY OF ALAMEDA et al.,)
Defendants.)

On May 4, 2011, Plaintiff Belinda K moved for administrative relief to file certain documents under seal for in camera review pursuant to Civil Local Rule 7-11(a). The first of these documents is an ex parte complaint for an emergency temporary restraining order, declaratory judgment, and preliminary and permanent injunctive relief. Belinda K filed this document ex parte, without notice to Defendants. The second document is a second emergency notice of removal of state juvenile court proceedings to federal court. The Court has reviewed the submitted documents and finds as follows.

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I. Emergency Notice of Removal

This Court has no jurisdiction over state juvenile court proceedings as this Court has already ruled in this case. *See J.H. et al. v. Baldovinos et al.*, 10-cv-02507, Dkt. No. 55 (N.D. Cal. Sept. 21, 2010) (filed under seal). Thus, removal is improper.¹

II. Complaint and TRO

Belinda K's submitted complaint names defendants and alleges causes of action that are not part of this case. If Belinda K wants to begin a new case against new defendants based on new causes of action, then she must file her complaint as a new and separate case.

Moreover, “[a] plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 129 S. Ct. 365, 374, 172 L. Ed. 2d 249 (2008) (citing cases). In violation of Civil Local Rule 65-1(a)(2), Belinda K did not attach a memorandum of points and authorities to her TRO request. This makes it difficult for the Court to evaluate the strength of her claims for relief. Although the Court understands that Belinda K is proceeding pro se, she must still provide legal support for her claims.

Finally, under Civil Local Rule 65-1, those applying for a temporary restraining order must give notice to the opposition unless “relieved by order of a Judge for good cause shown.” Belinda K filed her complaint and TRO ex parte without proper notice to the defendants named in her complaint. Even though the Court agrees that the subject matter discussed in the complaint touches on sensitive issues, the Court finds that the seriousness of the allegations contained in the complaint requires that named defendants have an opportunity to respond to Belinda K’s request for a temporary restraining order. Because Belinda K has already publicly initiated a significant amount of litigation on related matters, the Court finds that Belinda K’s claimed reasons for not giving notice to Defendants of this complaint are not sufficient.

¹ Moreover, Belinda K’s removal attempt is defective. Belinda K does not appear to have noticed the removal in the state court. Nonetheless, even if the notice were not defective, removal is improper.

1 Because Belinda K has not properly brought her complaint and TRO request before this
2 Court, the Court dismisses the complaint without prejudice. Belinda K should file a new case if
3 she wishes to pursue the claims outlined in her complaint.

4 **III. Motion to File Under Seal**

5 Belinda K filed both documents under seal in their entirety. In violation of the local rules,
6 she did so without providing a declaration establishing why the documents are sealable. *See CIV.*
7 L.R. 79-5(b)(1). Nevertheless, the Court grants her motion to file the documents under seal
8 because the Court has determined that her removal is improper and because the Court has
9 dismissed her complaint and TRO request. In the future, however, if Belinda K chooses to pursue
10 a new case, then she should comply with the local rules regarding the filing of documents under
11 seal.

12 **IT IS SO ORDERED.**

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14 Dated: May 6, 2011



15 LUCY H. KOH
United States District Judge